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7 ZINUS, INC.

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

10 ZINUS, INC., a California corporation,

11 Plaintiff,  
12 v.

13 SIMMONS BEDDING COMPANY, a  
14 Delaware corporation, and DREAMWELL,  
LTD., a limited liability company of  
15 Nevada,

16 Defendants.

17 AND RELATED COUNTERCLAIMS

Case No. 07-CV-03012 PVT

**[PROPOSED] ORDER GRANTING  
ZINUS, INC.'S MOTION FOR  
SUMMARY ADJUDICATION  
OF NON-INFRINGEMENT**

The Honorable Patricia V. Trumbull

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19 After having considered the motion, the papers filed in support of and in opposition to  
20 the motion, and having heard the arguments of the parties' counsel, the Court finds that the  
21 Swirl Wrap packaging method as defined in Zinus' Memorandum of Points and Authorities  
22 and in the accompanying declaration of Scott Reeves does not fall within the scope of any  
23 claim of U.S. Patent No. Re. 36,142, either literally or under the doctrine of equivalents.

24 IT IS HEREBY ORDERED that the Motion for Summary Adjudication of Non-  
25 Infringement brought by plaintiff and counterdefendant Zinus, Inc. is GRANTED.

26  
27 Dated: \_\_\_\_\_, 2007

28 \_\_\_\_\_  
The Honorable Patricia V. Trumbull  
United States Magistrate Judge

[PROPOSED] ORDER GRANTING ZINUS,  
INC.'S MOTION FOR SUMMARY  
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